

Minneapolis City Planning Department Report
Waiver From Moratorium
2401 Dupont Ave S; 1011 24th St W

Date: August 28, 2003; September 18, 2003

Applicants: Mike Fernandez, John Parod, and Spiros Zorbalas

Address Of Property: 2401 Dupont Ave S; 1011 24th St W

Contact Person And Phone: Spiros Zorbalas, 612-685-8271

Planning Staff And Phone: Tom Leighton, 612-673-3853

Ward: 3 **Neighborhood Organization:** Lowry Hill East Neighborhood Association

Existing Zoning: R2B

Reason For Waiver: To allow for the construction of a 33 unit multiple family condominium development.

Background

Interim Ordinance, Chapter 577, of the City Code, provides for “a moratorium on the establishment or expansion of any multiple family residential use within the recognized boundaries of the Lowry Hill East neighborhood (bounded by Lyndale avenue, Hennepin avenue and Lake Street), except where property has frontage on Hennepin Avenue, Franklin Avenue, Lagoon Avenue, Lyndale Avenue or Lake Street.” It was introduced November 22, 2002, and adopted by the City Council on February 28, 2003. The interim ordinance provided for a waiver of the moratorium where the City Council a) “finds substantial hardship caused by the restrictions”, and b) “finds that the waiver will not unduly affect the integrity of the planning process or the purposes for which the interim ordinance is enacted.”

This application is for a waiver of the moratorium to allow the below-described development to proceed.

The applicants are proposing to combine the two identified properties for the development of a 33 unit condominium building. Each of the co-applicants has ownership interest in one of the properties, and they intend to work together as a developer team in the development of the property.

The existing building at 2401 Dupont Ave S contains two ground floor commercial spaces and five dwelling units. The commercial and multiple family uses of the building presumably preceded the 1963 zoning of the site as R6, and the mid-1970s rezoning to R2B. Although the building at 1011 24th St W is described as a single family dwelling in the applicant’s written narrative, according to Mr. Zorbalas it is actually a duplex. The applicants propose to demolish the mixed use building and move the duplex residence to a nearby vacant property prior to developing the site.

Minneapolis City Planning Department Report
Waiver--2401 Dupont Ave S

The subject property is the northernmost property on the east side of the 2400 block of Dupont Avenue. It is zoned R2B, as is the rest of the block on which it is situated. All property on the west side of the 2400 block of Dupont Avenue is zoned R6. The property across the 24th Street to the north of the subject property is zoned R6 as well.

The subject proposal calls for the development of a three story condominium building with underground parking. The 11 units per floor would be a mix of single bedroom and efficiency units. One parking space per unit would be provided in the basement parking level. If the waiver is granted, the developers propose to apply for a rezoning to R5 and a lot area variance of around 30%. It appears that the development can include the proposed 33 units if the rezoning and variance is approved, and the applicant utilizes the available density bonuses for underground parking and affordable housing.

The applicants supplied a detailed narrative (attached) that describes the process undertaken to date in pursuit of a development concept that could be supported by the surrounding community and would be workable from a development perspective. Mr. Fernandez and Mr. Parod began this exploration in November, 2001, and initially focused on the 2401 Dupont parcel. In August, 2002, the LHENA Board reportedly voted in support of a scaled-down 16 unit development concept for this parcel.

Since that time, the development team, the property involved, and the development concept have been expanded. Mr. Zorbalas has joined the development team, along with the 1011 24th St. parcel for which he has negotiated a purchase agreement. The development concept has been expanded to the 33 units condominium concept that is the subject of this waiver application.

This concept was reviewed by the Lowry Hill East Neighborhood Association (LHENA) Zoning and Planning Committee board on August 15, 2003. The Board voted to not support the application for waiver of moratorium. Fourteen e-mails and a phone call have been received from community members opposed to granting the waiver. One e-mail has been received from a resident in favor of granting the waiver.

At the applicant's request the public hearing was continued to the September 18 Z&P meeting.

Findings

Hardship. In the applicants' narrative the assertion is made that waiting for completion of the planning study would represent a hardship. It describes the financial investment involved in gaining site control and in developing the condominium proposal (\$38,000). It describes the time that has elapsed since they began pursuing development of the 2401 Dupont property (21 months). It claims that the inclusion of 1011 24th St in the proposed project is time sensitive, and that if the waiver is not granted a) the 1011 24th St property will not be purchased and included in the project, and b) the earlier 2401 development concept will not proceed since the applicants have come to the conclusion that it is not economically feasible.

In the view of Planning staff, not all of these arguments represent a hardship to the applicant. First, the development proposal now before the City (and community) is significantly different than that which was under review in 2002, and was not advanced for review to the neighborhood organization and City of Minneapolis until August, 2003. Earlier designs failed for reasons unrelated to city review processes. Secondly, it is normal for developers to spend up-front costs related to the development of a piece of

Minneapolis City Planning Department Report
Waiver--2401 Dupont Ave S

property, and this does not guarantee positive outcomes where discretionary development applications are required. Thirdly, the property continues to be legally operated as a convenience store with attached rental units. The applicant's interest in redeveloping the property as a multi-family condominium building does not represent a hardship while the property can continue to be utilized for its present uses.

On the other side of the issue, the applicant asserts that an opportunity will be missed if the waiver is not granted. The applicant's narrative states that if the closing of the 1011 24th St property does not occur, it "will be put up for sale to other private parties." The developers further assert that without the 1101 24th St property, the development is "not economically feasible", since the 16 unit building that could be developed without this parcel "would not be profitable to build." The implication is that these developers would be unable to proceed with any development at this time or in the near future if the waiver is not granted.

Because a delay is claimed to make the property undevelopable in the near term, Planning staff finds that the Lowry Hill East moratorium represents a substantial hardship to the applicants.

Interference with objectives of moratorium. The purpose of the moratorium is to protect a planning study that will inform the future development of the Lowry Hill East neighborhood. The focus of the study is on the impact of additional multi-family development on the livability of the neighborhood. It has been determined that the planning study will include a rezoning study that will result in the rezoning of property. Attention will be given both to appropriate locations for further multi-family development, and the appropriate density of development where further multifamily development is supported.

The proposed development falls within the conceptual purview of the planning study in three ways. 1) Type of development. The proposed development is a multi-family condominium building. The focus of the planning study is on multi-family residential development. 2) Location of development. The proposed development is located about a block from Hennepin Avenue. Multi-family development in the transition zone between the perimeter corridors and the neighborhood interior will be an important geographic focus of the study. 3) Intensity of development. The proposed 33 units requires R5 zoning, and even with this zoning change can only be built by taking advantages of both available density bonuses—for underground parking and for guaranteeing the affordability of 5 units over a 15 year period—and getting nearly the maximum lot area variance. Even in locations where the planning study determines that multi-family development is appropriate, the intensity of development that is appropriate will be carefully considered to ensure compatibility with surrounding development and continued neighborhood livability.

It is quite possible that, given the existing site conditions and the proximity of the development to Hennepin Avenue, the planning study will find that multi-family development is appropriate for the subject site. But even under this scenario, the development intensity that is determined to be appropriate is still very unclear and goes to the heart of the planning study analysis.

Note that, if the waiver were granted, the City Planning Commission and City Council would be asked next to consider whether a rezoning to R5 is warranted for the site, and a lot area variance. These are precisely the questions that cannot adequately be answered at the present time absent the planning study that is underway since the planning study a) will clarify the nature of appropriate future development, and

Minneapolis City Planning Department Report
Waiver--2401 Dupont Ave S

b) may change the context for a rezoning decision by making changes to the zoning of property in the vicinity of the subject property.

Planning staff finds that granting the waiver will adversely affect the integrity of the planning process and the purposes for which the interim ordinance was enacted.

Recommendation Of The City Planning Department:

The City Planning Department recommends that the City Council **deny** the application for waiver of moratorium.